

03M-06-001 E

MAY 30, 2003

Hon. E. Scott Bradley
Superior Court
Geo. De 1947

FILED
03 JUN -5 AM 11:15
PROTHONOTARY
SUSSEX CO.

RE: ENCLOSED WRIT of HABEAS CORPUS

Dear Judge Bradley:

I HAVE REVIEWED THE RELEVANT CASE LAW ON THE SUBJECT MATTER APPLICATION OF 183254 AND FOUND THERE IS "NO" CASE LAW ON THIS.

IVE ALSO APPLIED THE Bench Book AS TO THE DEAD OFFENCE SENTENCE UNDER AND I AM ABOUT 2YRS OVER THE MAXIMUM AMOUNT UNDER THE Bench Book ON THIS SENTENCE I AM CURRENTLY UNDER AND GIVEN THIS, THE COMMITMENT IS "NOT" REQUIRED ON ITS FACE. JONES V. ANDERSON Del. Supr. (183A.2d 177, 178 (1962) CITING CURRAN V. WOODLEY Del. Supr. 104 A.2d 771 (1954) thus, THE WRIT MUST ISSUE.

XC: file

ATTACHMENTS: (1) WRIT of HABEAS CORPUS.

Sincerely,
X
Ronald E. Proctor Jr.
1181 Woodstock Rd.
SMYRNA, DE 19477

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR SUSSEX COUNTY

IN THE MATTER OF THE PETITION OF) C.A. No. 03M-06-001
Ronald E. Proctor Jr.) Habeas Corpus

The State of Delaware,

You are Commanded:

To have Ronald E. Proctor Jr. who is allegedly detained in your custody, before the Superior Court of the State of Delaware, at the County Court House at Georgetown, Delaware immediately after the receipt of this Writ; and to abide any order which the Court shall make concerning Petitioner.

And further, to certify fully in writing under oath the true cause of said detention, and to have there a copy of all process or orders, if any, under which he is detained and also this Writ.

Prothonotary

Dated: _____

To the above named Respondent:

In case of your failure to produce _____ as above commanded, and fully certify in writing under oath the true cause of his detention, with a copy of all process or orders, if any, under which he is detained, within 3 days after service hereof upon you if the place where he is detained is not more than 20 miles from the County Court House, or within 6 days if such place is more than 20 miles, you may be adjudged to be in contempt of court.

Prothonotary

IN THE Superior COURT OF THE STATE OF DELAWARE
IN AND FOR Sussex COUNTY

IN THE MATTER OF
Ronald E. Proctor Jr
for a writ of habeas corpus.

C.A. No. 03M-06-00

MEMORANDUM IN SUPPORT OF WRIT OF HABEAS CORPUS

The above defendant submits this memorandum in support of his petition for writ of habeas corpus. Petitioner states the following in support:

1. The criminal action number in this case is 98-11-0576
Then 0585 JD No. 9809013934
2. Your petitioner is being unlawfully restrained of his liberty in violation of the laws of the State of Delaware, by reason of ① DEFENDANT WAS EXTRADITED TO DELAWARE ON 2-4-01
11§2501-2550 ② DEFENDANT WAS SENTENCED ON 11-2-02 UNDER
11§4214(A) HABITUAL OFFENDERS LAW. ③ 11§2549 PROHIBITION IN
IMPOSING HABITUAL OFFENDERS LAW TO ANY PERSON ON ACCOUNT OF AN-
CONVICTION MADE IN A PROCEEDING BROUGHT TO FINAL DISPOSITION BY
REASON OF THE USE OF THE AGREEMENT. (SEE EXHIBIT "A")

WHEREFORE, petitioner prays the petition issue and the writ granted.

Ronald E. Proctor Jr 163750
Delaware Correctional Center
Smyrna, DE 19977

Dated: MAY 30, 2003

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SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

SUSSEX COUNTY COURTHOUSE
THE CIRCLE
P.O. Box 746
GEORGETOWN, DELAWARE 19947
TELEPHONE (302) 856-5256

6-23-03

June 19, 2003

Ronald E. Proctor, Jr.
SBI# 00163750
Delaware Correctional Center
P.O. Box 500
Smyrna, DE 19977

RE: C.A. No. 03M-06-001

Dear Mr. Proctor:

This is my decision on your Writ of Habeas Corpus. You have raised two arguments in support of your writ. One, you argue that your sentence on the charge of Reckless Endangering in the First Degree exceeds the Sentencing Accountability Commission ("SENTAC") guidelines by two years.¹ There is no merit to this argument because the SENTAC guidelines do not limit your sentence.² You could have received a sentence of up to life imprisonment under 11 *Del. C.* § 4214(a). Therefore, you have no grounds for relief because the six-year sentence that you did receive was within the statutory limits prescribed by the legislature.³ Two, you argue that 11 *Del. C.* § 2549 prohibits you from being sentenced as a habitual offender because you were extradited from Florida to Delaware to face charges pending in Delaware.⁴ You have misread

¹Proctor was originally sentenced, as a habitual offender under 11 *Del. C.* § 4214(a), to six years at supervision level V. The sentencing guidelines set forth a presumptive sentence of 30 months at supervision level V where the defendant has two or more prior felonies. Proctor does have at least two prior felonies.

²Gaines v. State, 571 A.2d 765, 767 (Del. 1990).

³Id.

⁴11 *Del. C.*, § 2549 states: Nothing in this agreement shall be construed to require the application of the habitual offenders law to any person on account of any conviction had in a proceeding brought to final disposition by reason of the use of the agreement.

section 2549. Section 2549 only states that the agreement on detainers does not require the application of the habitual offenders law. This is different from prohibiting the application of the habitual offenders law. There is simply no merit to either of the arguments that you have raised. Since you are being held pursuant to a lawful sentencing order, your Writ of Habeas Corpus is denied.

IT IS SO ORDERED.

Very truly yours,

A handwritten signature in black ink, appearing to read 'E. Scott Bradley', written over a horizontal line.

E. Scott Bradley

ESB:tl1

cc: Prothonotary's Office
Prothonotary's Office (9809013934)